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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/543,949 04/06/00 MANDERFIELD, JR

G P99,1996

026263 QM12/0705
SONNENSCHN NATH & ROSENTHAL
P.O. BOX 061080
WACKER DRIVE STATION
CHICAGO IL 60606-1080

EXAMINER

ELOSHWAY, N

| ART UNIT | PAPER NUMBER |
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0727

DATE MAILED:

07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/543,949

Applicant(s)MANDERFIELD, JR, GROVER
JOHN**Examiner**

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 20) ☐ Other:

Art Unit: 3727

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I (a plastic container) in Paper No. 4 is acknowledged.
2. Claims 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 4.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 recites the limitation "each foot" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 13, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manca (U.S. D381,561) in view of Brazis et al. (U.S. 5,203,836). Manca discloses the claimed

Art Unit: 3727

invention except for the container being made of plastic. Brazis et al. teach that it is known to make a container of plastic (see col. 2 lines 58-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Manca with the container being made of plastic, as taught by Brazis et al., in order to easily form the container from a lightweight, widely used and effectively recycled material.

7. Claims 2, 4-12, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manca in view of Brazis et al., as applied to claim 1 above, and further in view of Cheng (U.S. 5,549,210).

Regarding claims 2, 4-12 and 15, the modified container of Manca discloses the claimed invention except for the plurality of feet at the bottom of the container. Cheng teaches that it is known to provide a container with a plurality of feet at the bottom (see figures 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Manca with the plurality of feet of Cheng, in order to strengthen the bottom wall of the container.

Regarding claim 14, the modified container of Manca discloses the claimed invention except for the lid being rotatably secured to the container. Cheng teaches that it is known to provide a container with a closure which is rotatably secured thereto (see figures 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Manca with the lid being rotatably secured to the container, in order to securely fasten the lid to the container.

8. Claims 1 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manca in view of Cheng (U.S. 5,549,210). Manca discloses the claimed invention except for the container being made of plastic. Cheng teaches that it is known to make a container of plastic (see line 1 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Manca with the container being made of plastic, as taught by

Art Unit: 3727

Cheng, in order to easily form the container from a lightweight, widely used and effectively recycled material.

9. Claims 1, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manca in view of Valyi (U.S. 5,939,153). Manca discloses the claimed invention except for the container being made of plastic. Valyi teaches that it is known to make a container of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Manca with the container being made of plastic, as taught by Valyi, in order to easily form the container from a lightweight, widely used and effectively recycled material.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the bowl structure.

11. THIS ACTION IS NON-FINAL.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Art Unit: 3727

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme
Patent Examiner
June 28, 2001